

Regional Economic Integration Working Group Matrix

Highlighted cells indicate U.S. Action

Agenda Item		US Member	US ABAC action	USG Position	Other economy positions
2. Matters arising from ABAC I			<ul style="list-style-type: none"> ABAC USA should monitor closely 		
3. Trade and Investment Liberalization			<ul style="list-style-type: none"> ABAC USA should monitor closely 		
a	TPP Update	Kevin Thieneman	<ul style="list-style-type: none"> ABAC USA is supportive of the TPP ABAC USA should be aware of any anti-TPP sentiments from Indonesia and Canada 	<ul style="list-style-type: none"> USG supports the TPP but is careful to call it a pathway to FTAAP. USTR would like to achieve “significant progress on” TPP by the November summit in Honolulu. 	<ul style="list-style-type: none"> TPP has 9 members in addition to USA: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam are members of the TPP negotiations
b	Regional Comprehensive Economic Partnership Update	Kevin Thieneman	<ul style="list-style-type: none"> ABAC USA is supportive of the TPP as a pathway to an FTAAP and feels that it is a more realistic and practical approach than EAFTA or CEPEA. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
c	FTAAP Pathways Update		<ul style="list-style-type: none"> ABAC USA should monitor closely 		
D	PE Tax issues as obstacle to FDI		<ul style="list-style-type: none"> ABAC USA should monitor closely 		
4. Initiating a new Services Agenda			<ul style="list-style-type: none"> ABAC USA is supportive of including services as a stand-alone issue and recommends that the REIWG look at developing a regional integrated supply chain for services in the same vein that it does for goods. 		
a	Skills mapping TBC		<ul style="list-style-type: none"> ABAC USA should monitor closely 		
b	Labor mobility		<ul style="list-style-type: none"> From Malaysian perspective – ABAC USA should monitor. 		
c	Marshall school update		<ul style="list-style-type: none"> ABAC USA is supportive of Marshall school project and should monitor closely 		

5. Enhancing Supply Chain Connectivity			<ul style="list-style-type: none"> ABAC USA should monitor closely 		<ul style="list-style-type: none"> ABAC has been supportive of work towards improving Supply Chain Connectivity. The Goal in REIWG will be to identify best practices for supply chain connectivity and identify areas for further improvement in APEC's Supply Chain Connectivity Framework (e.g. logistics, transportation).
A	Supply chain connectivity plans and update	Kevin Thieneman	<ul style="list-style-type: none"> ABAC USA is supportive of a holistic and coordinated approach to implementing APEC's Supply Chain Connectivity Initiative. A stock-take or inventory of economy-specific policies and practices already underway will contribute to measuring APEC's progress to address chokepoints by providing economies with a simple, more quantifiable set of actions that build on the SC Action Plan. 		
6. Review of MRT Letter		Kevin Thieneman	<ul style="list-style-type: none"> ABAC USA should support the following language: <i>Supply Chain Connectivity.</i> <i>ABAC is supportive of a holistic and coordinated approach to implementing APEC's Supply Chain Connectivity Initiative. A stock-take or inventory of economy-specific policies and practices already underway will contribute to measuring APEC's progress to address chokepoints by providing economies with a simple, more quantifiable set of actions that build on the SC Action Plan.</i> <i>Supporting cross-border data flows.</i> <i>International trade relies on a seamless commercial environment that allows for the uninterrupted data flows across borders. Massive growth in the complexity and volume of global supply chains means that cross-border data flows no longer constitute point-to-point transmissions but occur as part of a globally networked series of processes</i> 		

		<p><i>made to deliver a business result. Companies with locations all over the world need to be able to move personal information across national borders in order to efficiently and cost effectively deliver services to their individual customers. Regulatory restrictions, lack of regulatory coherence, and poor transparency in the development, implementation, and application of regulations on cross-border data flows are significant non-tariff trade barriers to trade, particularly in the services economy, given that cross-border services trade is, at its essence, the exchange of data. ABAC urges Ministers to modernize international rules and practices governing cross-border flows of data, treat flows of data and information as comparable to the flows of goods, and ensure that data privacy initiatives, such as the APEC Data Privacy Pathfinder, reflect the principles of free flow of data across border.</i></p>		
7. Other business		<ul style="list-style-type: none"> • ABAC USA should monitor closely 		

Regional Economic Integration Working Group
0730-1030, Tuesday 22 May 2012
Venue: Sabah Room, Basement II, Shangri-La Hotel, Kuala Lumpur

Draft Agenda

Agenda Item	Issue	Lead Economy/ Speaker	Doc. No.
1	Welcome, approval of agenda	Chair/T. Nowell	REIWG 32-01
2	Minutes and matters arising from the first meeting 2012 (not elsewhere specified)	Chair/T. Nowell	REIWG 32-010
3	Trade and Investment liberalisation		
	a) Trans-Pacific Partnership update. Guest presenter: Mr. J. Jayasiri, Senior Director, Multilateral Trade Policy and Negotiations, Ministry of International Trade and Industry	ABAC Malaysia/TBA	
	b) Regional Comprehensive Economic Partnership update. Guest presenter: Mr. Ravidran Palaniappan, Senior Director, ASEAN Economic Cooperation Division, Ministry of International Trade and Industry.	ABAC Malaysia/TBA	
	c) Pathways to FTAAP matrix update	Chair/T. Nowell	
	d) Obstacles to foreign direct investments – PE tax and transfer price tax issues. Guest presenter: Mr Muraoka, Honda, Japan.	ABAC Japan TBC	
4	Initiating a new services agenda		
	a) APEC skills mapping project.	ABAC Philippines/D. Ho	
	b) Skills mapping/labour mobility: Malaysian perspective. Guest presenter from Malaysian Government. TBC	ABAC Philippines/D. Ho	

Agenda Item	Issue	Lead Economy/Speaker	Doc No
	c) Digital Trade	ABAC USA/TBC	
	d) Marshall School research project on services - update	Chair/T. Nowell	
5	Enhancing supply chain connectivity		
	a) APEC's Supply Chain connectivity plans and update. Guest presenter: Dr Philip Chang, APEC Policy Support Unit.	Chair/T. Nowell	
6	Review of draft MRT letter.	Chair/T Nowell	
7	Other Business	Chair/T Nowell.	-

APEC BUSINESS ADVISORY COUNCIL

**REGIONAL ECONOMIC INTEGRATION WORKING GROUP
FIRST MEETING: THURSDAY 23rd FEBRUARY 2012**

HONG KONG CONVENTION AND EXHIBITION CENTRE, HONG KONG

MINUTES

1. The Chair, Tony Nowell, welcomed members and staffers, Co-Chairs Matthew Miao and Enrique Gubbins, acting co-chair Ho Meng Kit and extended the apologies of Lead Co-Chair John Prasetyo and co-chair Gautam Bannerjee. The Chair welcomed the guest speakers: Mr Howard Yam from the Hong Kong Department of Trade and Industry, Mr Naota Muraoka from Honda Motor Company in Tokyo, Ms Belinda Lui from Time Warner's Hong Kong Office, Ms Monica Contreras from CTI, Dr Carl Voight from the USC Marshall School, Dr Peter Stevens from GS1 New Zealand, and his local colleagues, and Mr Lin Yi-Xiong from the Ministry of Finance in Chinese Taipei. The Chair sought and received approval for the agenda (REIWG 32-001).
2. The minutes of the fourth meeting of 2011, REIWG 31-062, were approved. There were no matters arising.

Review of Draft REIWG 2012 Action Plan and Key Priorities

What was the issue?

3. The meeting considered document REIWG 32-006 which set out a draft 2012 Action Plan for REIWG as a guide for deliverables this year.

What was discussed?

4. The meeting considered three key priorities for REIWG in 2012:
 - a. Accelerating trade and investment liberalisation
 - b. Initiating a new services agenda
 - c. Enhancing supply chain connectivity (policy and facilitation aspects).
5. The meeting noted a range of other REIWG "initiatives in progress".

What was agreed/decided?

6. The three key priorities for REIWG in 2012 were approved and the draft 2012 Action Plan was approved as final.

TRADE AND INVESTMENT LIBERALISATION

WTO Update

What was the issue?

7. Mr Howard Yam from the Hong Kong Department of Trade and Industry briefed the meeting about the outcomes of the 8th WTO Ministerial Conference (MC8) held in Geneva 15-17 December 2011 and the WTO General Council meeting in mid-February 2012.

What was discussed?

8. At MC8 three new accessions were approved (Russia, Montenegro and Samoa). The WTO membership now covers 97% of world trade. MC8 also agreed on initiatives to assist least developed economies; tasked officials to continue monitoring potentially trade-distorting policies; approved a work programme to integrate small economies into the multilateral trading system and approved a work programme for electronic commerce. A plurilateral Government Procurement Agreement was also finalised amongst 41 WTO members, which could generate an estimated US\$80-100 billion in new trade opportunities.
9. The MC8 reaffirmed the importance of the WTO's rules based system and dispute resolution procedures for keeping trade open, despite the lack of further trade liberalisation via the Doha Round. Ministers expressed regret that the Doha Round was at an impasse and pledged to continue working towards a successful conclusion. Given that significant differences remained, it was deemed unlikely that all elements of the Round could be concluded as one package. Ministers agreed to explore different negotiating approaches and make progress where possible via an early harvest approach. WTO Director-General Pascal Lamy announced he would convene a multi-stakeholder panel to study and report by late 2012 on the real drivers of trade, patterns of trade, barriers to trade and how to keep transforming trade into development, growth, jobs and poverty alleviation.
10. At a recent WTO General Council meeting, Pascal Lamy identified a collective willingness amongst members to move forward on a pragmatic basis in small steps where there was consensus; cautioned members against adopting a prescriptive approach and indicated that progress on measures to assist least developed economies (such as duty free quota access) and a package of trade facilitation measures (which could deliver around half of the total gains expected from the Doha Round) could be delivered relatively soon. He expressed concern that a proliferation of bilateral and regional trade agreements could potentially undermine the multilateral trade system. He concluded that there was a "cautiously optimistic atmosphere" about the prospects for progress.
11. REIWG members noted that the WTO remained very important and continued to deliver achievements and keep trade open even in the absence of progress in the Doha Round. Members expressed interest in the multi-stakeholder panel although at this stage it is unclear how ABAC and other stakeholders could contribute to this process.

What was agreed/decided?

12. Mr Yam's remarks were noted. It was agreed that in future REIWG would seek external reports about the WTO and the Doha Round only when there was something significant to report, thus freeing up time to consider other matters. The Chairman would draw any developments in the Doha Round to REIWG's attention at future meetings.

Pathways to FTAAP

What was the issue?

13. Recent developments in two of the possible pathways towards FTAAP: the Trans Pacific Partnership and the newly formed Regional Comprehensive Economic Partnership (RCEP).

What was discussed?

14. The Chairman noted that some members had voiced concern that TPP was at risk of becoming an exclusive club. He shared with members a briefing on the state of play in TPP. TPP was a work in progress but since the APEC Leaders' meeting in Honolulu negotiators had moved expeditiously to meet Leaders' expectations for concluding negotiations in 2012.
15. The broad outlines of TPP were released in Honolulu, indicating that significant momentum had now been developed in the negotiation. The broad outlines were generally welcomed by business organizations in TPP member countries. In Honolulu business organizations from seven out of the nine TPP partners released a statement urging TPP Leaders to conclude a comprehensive, high standard TPP in 2012.
16. The broad outlines:
 - a. reaffirmed TPP partners' commitment to comprehensive, high quality and ambition
 - b. confirmed the goal of elimination of tariffs on all products in a single market access schedule
 - c. outlined progress made in each area under negotiation including in relation to "next generation" issues; and
 - d. set a timetable for conclusion of negotiations in 2012.
17. During the Honolulu APEC week, Japan, Canada and Mexico announced their intention to seek to join TPP and since then had been pursuing consultations individually with the nine existing members with a view to confirming a timetable for their accession to the negotiation.
18. Chief negotiators convened in Kuala Lumpur in December to discuss how the TPP negotiation could be completed in 2012. Chief negotiators also discussed a 2012 roadmap with each negotiating group, which are now charged with developing a detailed work plan, including further inter-sessional activities. The next full round will take place in Melbourne 1-9 March. A further round is likely to be held in May. Negotiators will report to Trade Ministers meeting in Kazan in early June and to Leaders meeting at APEC in Vladivostok in September.
19. The Chairman also shared the following views. TPP was a train which had left the station and was nearing its initial destination. But there were other parts to the journey and economies would be able to join the journey at different times. The final destination was FTAAP. TPP was not the only way to get there. No-one would get to FTAAP any faster by slowing down the TPP train. Business needs would not be addressed by going slow. Supply chains are accelerating. Economic agreements need to move with the times or risk becoming outdated much like the Doha Round.
20. The Chairman noted there had been useful discussions about TPP with SOMs in the Dialogue session on REI. The great majority of SOMs were supportive of TPP. Some from non-member economies talked about the need for capacity building in preparation for TPP

in due course. The Chairman suggested that ABAC should focus on the ultimate goal of a FTAAP, and argue for the need for a more coherent roadmap (or route network) to guide the various sub-regional initiatives now underway. SOMs had not been prepared to engage on that issue during the REI Dialogue. However the means to achieve FTAAP through the various pathways needs to be more coherently laid out as there are only 8 years until 2020.

21. Members discussed whether the very high quality of TPP would make it exclusive. Members expressed support for the principle of inclusiveness. There was general agreement that ABAC wanted to see TPP be as inclusive as possible without undermining the level of quality of the deal. It was reported that Canada was willing to join TPP and to consider the policy amendments necessary to enable this to happen. It was noted that if China and Indonesia were to join TPP that would bring TPP close to the FTAAP goal. It would be important that the TPP door be left open to these significant APEC economies. Possible constitutional difficulties for the Philippines in respect of FTAAP were noted, suggesting that some creativity would be required in due course to bring FTAAP to fruition. It was hoped that those countries that were party to both TPP and RCEP negotiations would seek some consistency in their approach to issues.
22. REIWG's Lead Staffer referred to the updated matrix (REIWG 32-003) reporting on pathways to FTAAP which contained updates on TPP, CEPEA and EAFTA. She noted that CEPEA and EAFTA had now been rolled into the new Regional Comprehensive Economic Partnership (RCEP). ABAC Malaysia provided a briefing on this significant new development as set out in document REIWG 32-009.

What was agreed/decided?

23. The updated FTAAP matrix and the briefing on RCEP were noted. The Chairman proposed to share with relevant officials ABAC's desire for TPP to be as inclusive and high quality as possible and also to share the concerns expressed by non-TPP members. The Chairman undertook to circulate to all ABAC members a detailed overview and update on the TPP process.

Regulatory Coherence

What was the issue?

24. Regulatory coherence was a major focus for REIWG in 2011 and remains is a key challenge in many areas of interest from the services sector to supply chains.

What was discussed?

25. ABAC's views on regulatory coherence were presented by David Dodwell at a recent seminar on regulatory coherence at SOM1. At that meeting the new ABAC booklet entitled "Strategic Framework for Regulatory Coherence in APEC: an assessment of the dairy, electronics and off highway vehicle industries" had been distributed. More copies are available from ABAC USA if required for distribution in home economies.

What was agreed/decided?

26. ABAC should look for more opportunities to distribute the booklet and to share our views on the principles and best practices necessary for effective regulatory coherence.

Obstacles to Technical Transfer for Foreign Direct Investments

What was the issue?

27. In 2011 ABAC drew APEC's attention to policy concerns about the environment for foreign direct investment including in relation to transfer pricing and social security payments. This year ABAC Japan wishes to draw to APEC's attention additional problems facing FDI. The first of these relates to barriers to technology transfer facing companies that operate beyond their home country.

What was discussed?

28. Mr Naoto Muraoka from Honda gave a presentation as set out in document REIWG 32-002 and an accompanying PowerPoint describing how the smooth transfer of technology is necessary for successful growth of FDI. FDI companies need be fairly compensated for the value of the IP in any technology that is transferred between its companies in different countries. But FDI companies encounter a range of barriers e.g. restrictions on remittance of IP fees, and a refusal by some governments to recognise IP fees as deductions in the area of international taxation of transfer pricing. This could result in double taxation. A number of steps to remedy these issues were proposed.
29. ABAC members expressed sympathy and support for many of the issues raised in this presentation. It was suggested this issue could be picked up in the ABAC letter to finance ministers later this year. It was important to get tax authorities talking to each other to deal with these issues. Monica Contreras confirmed these issues are being addressed in the CTI as part of their agenda on innovation-related policy issues. In a few weeks there will be an APEC seminar on innovation in Singapore, arranged by Japan, at which these sorts of issues will be discussed. Members also noted challenges facing receiving countries in respect of the cost impact of technology absorption and capacity building which needed consideration.
30. The Chairman noted this was a cross cutting issue that related to both investment liberalisation and technology transfer. He invited ABAC Japan to continue to develop this theme in REIWG, noting that some elements would also be relevant to the SDWG agenda on innovation. We will need to engage with CTI to take this forward.

What was agreed/decided?

31. The following recommendations were endorsed:
- a. Acknowledge that smooth technology transfer is vital for healthy operation and growth of FDI and that it is necessary to remove the factors that restrict the appropriate recovery of investment for IPR and dispatching of engineers.
 - b. Observe Annex A-10 of Honolulu Declaration which was adopted in APEC Economic Leaders' Meeting in Honolulu in November 2011, by abolishing regulations and guidelines to "Ensure that the terms and conditions of transfer of technology, production processes, and other proprietary information are left to the agreement between individual enterprises, consistent with WTO rules."
 - c. Adopt and disseminate through educational activities the "OECD Transfer Pricing Guidelines" as a common rule in APEC region for an appropriate and reasonable enforcement of the transfer pricing taxation.

- d. Engage in the following steps to prevent double taxation; (1) to define IPR including its coverage, (2) to establish a common rule for a method to calculate payments for IP, (3) to provide an arbitration clause within a tax convention, (4) to provide an independent third-party body for the settlement of disputes like the panel in WTO, (5) to promote the use of APA (Advance Pricing Arrangement), (6) to accelerate bilateral agreement procedures
32. A related PE issue and the following issues will be discussed in the next meeting.
- a. Establish in domestic legislation a statute of limitation for reclamation on income for transfer pricing taxation consistent with the period in the mutual appeals clause in the corresponding bilateral agreement.
 - b. Establish collative adjustment rule(s) to enforce the agreements reached at the bilateral agreement procedure. Correct the period of prescription for refund, if the period of prescription is not reasonably long enough.

INITIATING A NEW SERVICES AGENDA

A Digital Trade Agenda for APEC

What was the issue?

33. The growth in trade in digital and electronically delivered products gives rise to another potential next generation trade issue. Many APEC economies are strong producers of digital products in both “hard” and “soft” formats. ABAC USA proposes an APEC digital trade agenda for expanding trade in digital and electronically delivered products and services.

What was discussed?

34. Ms Belinda Lui from Time Warner’s Hong Kong Office tabled document REIWG 32-005 and an accompanying PowerPoint presentation. Fostering digital trade is important to many economic sectors. Market access is an impediment to this trade. There are chokepoints in digital supply chains with inconsistent and unfair customs treatment of digital products. A WTO moratorium on the imposition of customs duties on digital products and electronically transmitted products is in place and has been extended but it is not a permanent measure.
35. Members discussed the often fine distinction between digital products and services. Digital services are important, e.g. in the education sector and should be considered. These issues will likely come up in the context of the Marshall Business School research on services this year. It was proposed that digital products and services should receive no lesser treatment than non-digital products and services.
36. Ms Contreras noted ABAC’s interest in digital trade. CTI will be looking at issues related to the Information Technology Agreement. ABAC members did not discuss the ITA due to time constraints so recommendations relating to that topic will be considered at the next meeting.

What was agreed/decided?

37. It was agreed that ABAC would:

- a. Endorse the development of an action plan for APEC 2012 to secure open markets for digital and electronically delivered products and
- b. Recommend that APEC economies commit to adopting policies and measures that foster digital trade, including by providing permanent duty-free treatment for all digital products.

38. It was agreed that the Information Technology Agreement would be discussed at the next meeting.

ENHANCING SUPPLY CHAIN CONNECTIVITY

The Chairman noted that policy and facilitation issues related to supply chain connectivity were an important priority for REIWG, following on from the recommendations from the 2011 Marshall School Report on chokepoints in regional supply chains including in relation to systems standardisation, information technology, customs procedures and data collection.

Global Data Standards***What was the issue?***

39. In 2011 the Marshall School report recommended that APEC should expand its role in the leadership, governance and oversight of standardisation initiatives within supply chains. Improved data standardisation will impact multiple chokepoints including transparency, documentation, customs efficiency and customs transit arrangements. For these reasons, Dr Peter Stevens from GS1 New Zealand discussed how global data standards enable supply chain visibility and efficiency.

What was discussed?

40. The issues set out in document REIWG 32-004 were discussed. Customs services need to have visibility of products as they move towards and then cross a border. This requires standardised coding to help expedite border clearance processes. The International Trade Data System (ITDS) creates transparency, efficiencies and consistent decision making at the border. This system of data capture is also relevant for the Approved Economic Operator (AEO) programme by creating a reliable track record.

What was agreed/decided?

41. Members were encouraged to recognise the benefits of a global standards based approach to assist the flow of products through supply chains and to engage with their authorities and partners to align and act accordingly. Members noted this presentation.

A Single Window Cloud Computing Initiative

What was the issue?

42. ABAC Chinese Taipei recalled ABAC's 2011 recommendations for an enhanced single window initiative utilising new ICT such as cloud computing and the creation of an APEC Single Window Cloud. It was further agreed that REIWG should continue to find ways to promote and enhance supply chain connectivity in key areas such as best practice information sharing, data collection, harmonisation and simplification of customs procedures and systems standardisation. Thus the efforts of Chinese Taipei to enhance supply chain connectivity through a data communications technology-enabled Customs-Port-Trade Single Window System should be of interest to ABAC.

What was discussed?

43. Mr Lin from the Ministry of Finance in Chinese Taipei presented the information set out in document REIWG 32-008. The single window system in Chinese Taipei builds on the APEC Framework for Secure Trade, and is the result of a successful collaboration between the Customs authority and the private sector to create a central integrated database of digital information. This initiative complies with international standards, is fully integrated and achieves the total sharing of information and high interoperability via a single window. A short video explaining the benefits of RFID and passive e-seal technology in the areas of container control and security was shown. This technology greatly facilitates the movement of cargo with a minimum of intervention.
44. Members greeted this presentation positively. The Chairman described it as a good example of a national initiative that needs to be replicated regionally. There were implications on the hardware side that would be of interest to the IDWG. REIWG would focus on the cloud initiative as proposed by ABAC Chinese Taipei (their cloud project got underway in 2011 and would be completed by 2013 with a view to linking end to end across borders within APEC) and the application of data standards as discussed in the previous presentation.

What was agreed/decided?

45. The presentation was noted and will be the subject of further development by ABAC Chinese Taipei and ABAC New Zealand.

Other Business

46. The Chairman noted the Marshall Business School (MBS) would undertake a project on services in 2012, building on the ABAC 2011 services report. It would investigate regional services trade and investment flows, identify key chokepoints in services trade and quantify the benefits of addressing these barriers. The Chairman undertook to keep REIWG informed of progress. Dr Carl Voight from the MBS requested the assistance of ABAC members and their staff to facilitate the research process by helping to identify appropriate local business contacts for his research team to interview.
47. The Chairman proposed that the remaining items of the REIWG agenda (skills mapping and the APEC Travel Facilitation Initiative) be held over until the APAWG meeting. There being no items of other business, the Chair thanked all present for their participation and the guest presenters for their contributions and called the meeting to a close at 6.45pm.

TPP Background

With the objective of concluding the TPP negotiations by the end of this year, negotiators met in Dallas, TX from May 8 – 18 for their 12th round of talks. (This document was prepared prior to the conclusion of the round, so a summary of progress is not included.)

Prior to the commencement of the round representatives of the US business community expressed concerns that domestic concerns will prevent negotiators from achieving the ambitious provisions that they are seeking. A number of key sticking points, including IPR provisions, investor –state dispute resolution, and state-owned enterprises along with efforts to protect some specific industries from foreign competition (such as dairy, sugar and apparel in the case of the US) will need to be overcome in order to ensure this is a high-standard, 21st century agreement.

In addition to negotiating the provisions in the agreement, trade officials are considering bids from Japan, Mexico and Canada to join the talks. The U.S. has placed a priority on concluding an agreement with the current members by the end of this year over broadening participation in the agreement. This has not discouraged trade ministry officials from Canada, Mexico and Japan from holding bilateral meetings with current TPP members to garner support for their respective bids to join the talks.

Japan

Under domestic political pressure, PM Noda postponed a formal announcement of Japan's intention to engage in the TPP negotiations. Business groups such as the Keidanren and Japan International Chamber of Commerce strongly support Japan's efforts to join the TPP, however Japan's agriculture and medical lobbies have undertaken a very public campaign to thwart Noda's efforts to bring Japan to the negotiating table. Japan's Central Union of Agriculture Co-operatives anti-TPP lobbying effort reached as far as Washington, D.C. where it took out a full page ad in the Washington Post featuring the text "Don't let the TPP rob your future."

Canada

PM Harper expressed Canada's interest in joining the TPP talks in Honolulu last November. Canadian officials have held bilateral talks with current TPP participants. Six countries have expressed support for Canada's inclusion in the talks while the US, NZ and Australia have been more circumspect. This has been attributed to Canada's delay in passing copyright reform legislation and the supply management mechanism it uses to protect its dairy and poultry industries.

Mexico

Mexican officials have expressed a strong desire to join the TPP talks and have also conducted bilateral meetings with current TPP members. The US has been accused of delaying its review of Mexico's bid to join the talks. USTR noted that further consultations need to be undertaken based on input from Congress and stakeholders before a decision can be taken on Mexico.

Concerns from ABAC

During the ABAC meeting in Hong Kong, a few ABAC members expressed concerns about the TPP. Specifically, Paul Lee of ABAC Canada noted that there was a lack of transparency in the approval process for new countries seeking to join the talks.

John Prasetyo shared his concern that the 21st century nature of the TPP would set standards that are too high for developing economies, effectively preventing them from joining the TPP. This would potentially have a negative impact on the TPP's role as a pathway toward an FTAAP.

Both members have valid concerns. As a new negotiation, a clear set of guidelines for how new countries will join the talks has been established. It is also not clear Japan, Canada and Mexico will be considered individually or as a package. Regarding Prasetyo's concern, the high standard nature of the TPP will prevent economies that are not willing to sign up to a "gold standard" agreement from joining. However, the TPP can be compared to the "Pathfinder" approach in APEC, where economies that are ready to move forward with the implementation of certain initiatives are able to do so, while those seeking more time are able to maintain the status quo.

Meeting Document Summary Sheet Template

Document Title:

Report to ABAC – Facilitation of Technology Transfer from a Business Perspective

Purpose:

For consideration

Issue:

For a smooth transfer of technology to occur due collection of the intellectual property (IP) value and adequate dispatch of engineers to complement the technology transfer as well as a fair, predictable, transparent and a unified tax system and procedures are indispensable.

Background:
I. Transfer Pricing

As discussed in the previous meeting in Hong Kong, global measures, such as bilateral, multilateral or other international arrangements are needed to eliminate risks of double taxation when transfer pricing rules are applied on IP. Besides global measures, there are cases where domestic legislations also need to address this issue which prevent technology transfer and foreign direct investment as in cases shown below:

- (1) Lack of any stipulation on refund to correct double taxation in the domestic legislations of some economies.
- (2) Unreasonably short period of prescription for refund.
- (3) Inconsistencies between the statute of limitations for reclamation on income for transfer pricing and the period in the mutual appeals clause in the corresponding bilateral agreement.

II. Permanent Establishment (PE)

Compensation to pay for the dispatch of engineers is regarded as constituting a permanent establishment (PE) for services and the PE Tax is levied on the compensation to pay for the dispatch of the engineers. This was a result of a sudden, unpredictable and nebulous change in the interpretation of the applications of tax laws in which originally, the compensation to pay for the dispatch of engineers was taxed for royalty payment and not for permanent establishment. The dispatch of engineers was and is an integral part of the technology transfer it facilitates. Governments have imposed PE tax on the dispatch of engineers despite its real purpose, just for the reason that the period of stay exceeded 6 months. Such unpredictable and sudden changes in tax laws make investment decisions and the management and operation of FDI extremely difficult.

Proposal /Recommendations:**I. Transfer Pricing**

*Prepare necessary measures in each economy for tax refund to eliminate double taxation on transfer pricing. And establish a reasonably long-enough period of prescription for refund.

* Establish in domestic legislation a statute of limitations of reasonable length in time for reclamation on income for transfer pricing taxation.

II. Permanent Establishment

In order to facilitate dispatch of engineers which is complementary to and indispensable for technology transfer, the following measures are needed.

* Adopt “OECD model tax convention” as a common PE rule within the APEC region and engage in educational activities for its dissemination.

* Clarify the interpretation on stipulations in tax convention, if ambiguities remain in interpretation.

* Create a mechanism of consultation between authorities, if any changes in operation of rules.

Decision Points:

- Endorse the recommendations outlined above.